

AGENDA BILL APPROVAL FORM

Agenda Subject: Resolution No. 4454		Date: February 17, 2009
Department: Public Works	Attachments: Resolution No 4454, Easement, Exhibit A and Exhibit B	Budget Impact: \$ 0

Administrative Recommendation:

City Council adopt Resolution No 4454.

Background Summary:

Resolution No 4454 authorizes the Mayor to grant construction and permanent occupation easements to Auburn Professional Plaza LLC, who is currently constructing an office building for which it is necessary to place footings and other support structures below the street grade in the City's right of way to an extent that was not initially contemplated in the plans for the building. After construction is complete, the footings and other support structures will not interfere with pedestrian or vehicle access or with other underground or aboveground utilities.

The easement grants Auburn Professional Plaza LLC the right to use the easement area to construct operate, maintain, repair, replace improve and remove permanent footings and other underground support structures for the underground building footings.

The easement also reserves the City's right to use the easement area for any purpose that is not inconsistent with the rights granted in the easement, provided that the City will not construct anything on the easement area without written consent of Auburn Professional Plaza.

This easement will be a covenant running with the land.

Reviewed by Council & Committees: <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <input type="checkbox"/> Arts Commission <input type="checkbox"/> Airport <input type="checkbox"/> Hearing Examiner <input type="checkbox"/> Human Services <input type="checkbox"/> Park Board <input type="checkbox"/> Planning Comm. </div> <div style="width: 45%;"> COUNCIL COMMITTEES: <input checked="" type="checkbox"/> Finance <input type="checkbox"/> Municipal Serv. <input type="checkbox"/> Planning & CD <input checked="" type="checkbox"/> Public Works <input type="checkbox"/> Other _____ </div> </div>	Reviewed by Departments & Divisions: <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <input checked="" type="checkbox"/> Building <input type="checkbox"/> Cemetery <input type="checkbox"/> Finance <input checked="" type="checkbox"/> Fire <input type="checkbox"/> Legal <input checked="" type="checkbox"/> Public Works </div> <div style="width: 45%;"> <input checked="" type="checkbox"/> M&O <input type="checkbox"/> Mayor <input type="checkbox"/> Parks <input checked="" type="checkbox"/> Planning <input checked="" type="checkbox"/> Police <input type="checkbox"/> Human Resources </div> </div>
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Action:

Committee Approval: ☐ Yes ☐ No
 Council Approval: ☐ Yes ☐ No Call for Public Hearing ____/____/____
 Referred to _____ Until ____/____/____
 Tabled _____ Until ____/____/____

Councilmember: Wagner	Staff: Dowdy
Meeting Date: February 17, 2009	Item Number: VIII.B.5

RESOLUTION NO. 4 4 5 4

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AUTHORIZING THE GRANTING OF AN EASEMENT FOR CONSTRUCTION AND PERMANENT OCCUPATION OF VARIOUS PARTS OF THE CITY RIGHT OF WAY IN CONNECTION WITH THE AUBURN PROFESSIONAL PLAZA PROJECT

WHEREAS, by Resolution Numbers 4393 and 4394, the City Council authorized the sale of certain real property to Auburn Professional Plaza, LLC, for the purposes of constructing an office building, and further authorized the City to enter into an lease agreement for the use of a portion of that building; and

WHEREAS, as part of the construction of the building, it is necessary to place footings and other support structures below the street grade in the City's right of way to an extent that was not initially contemplated in the plans for the building; and

WHEREAS, after construction is complete, the footings and other support structures will not interfere with pedestrian or vehicle access, or with other underground or aboveground utilities;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, HEREBY RESOLVES as follows:

Section 1. That the Mayor is hereby authorized to grant construction and permanent occupation easements in substantially the same form as Exhibit A, attached hereto and incorporated herein fully, and to add appropriate legal descriptions to substantially correspond to the diagrams attached hereto as Exhibit B.

Section 2. That the Mayor is authorized to implement such administrative procedures, including but not limited to allowing immediate access to the right of way for construction purposes, as may be necessary to carry out the directives of this legislation.

Section 3. That this Resolution shall take effect and be in full force upon passage and signatures hereon.

Dated and Signed this _____ day of _____, 2009.


CITY OF AUBURN

PETER B. LEWIS
MAYOR

ATTEST:

Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:



Daniel B. Heid, City Attorney

After recording return to:
CITY OF AUBURN
ATTN: City Clerk
25 W. Main Street
Auburn, WA 98001

EASEMENT

Reference No. of related documents: _____

Grantors: **CITY OF AUBURN**
Grantee: **AUBURN PROFESSIONAL PLAZA, LLC**
Short Legal: _____

Assessor's Property Tax Parcel Nos.: _____

For and in consideration of One Dollar (\$1.00) and other valuable consideration in hand paid, CITY OF AUBURN, a municipal corporation of the State of Washington, ("Grantor" herein), hereby conveys and warrants to Auburn Professional Plaza, LLC, a Washington Limited Liability Company ("Grantee" herein), for the purposes hereinafter set forth, a nonexclusive perpetual easement over, under, along across and through the following described real property ("Property" herein) in KING County, Washington:

(Insert legal description here.)

1. Purpose. Grantee shall have the right to use the Easement Area to construct, operate, maintain, repair, replace, improve, and remove permanent footings and other underground support structures for underground building footings and associated support structures in the City Right of Way in accordance with the construction documents attached hereto as Exhibit B and incorporated herein fully by reference.

2. Grantee's Use of Easement Area After Construction. After construction, Grantee's right to use the Easement Area is limited to the existing underground structures. Grantee shall have no right to interfere with pedestrian or vehicle access within the City's Right of Way, and Grantee shall have no right to interfere with the placement, operation, or maintenance of utilities in the Right of Way; Provided, that such other uses shall not unreasonably infringe on Grantee's easement rights.

Following the initial construction of all or a portion of its systems, Grantee may, from time to time, repair or maintain facilities within the Easement Area as it may require for such facilities. Grantee shall have the right of access to the Easement Area over and across the Property to enable Grantee to exercise its rights hereunder. Grantee shall

compensate Grantor for any damage to the Property caused by the exercise of such right of access by Grantee.

3. Grantor's Use of Easement Area. Grantor reserves the right to use the Easement Area for any purpose not inconsistent with the rights herein granted, provided, however, Grantor shall not construct or maintain any buildings, structures or other objects on the Easement Area without the prior written consent of the Grantee.

4. Indemnity. Grantee agrees to indemnify Grantor from and against liability incurred by Grantor as a result of Grantee's negligence in the exercise of the rights herein granted to Grantee, but nothing herein shall require Grantee to indemnify Grantor for that portion of any such liability attributable to the negligence of Grantor.

5. Abandonment. The rights herein granted shall continue until such time as Grantee ceases to use the Easement Area for a period of five (5) successive years, in which event, this easement shall terminate and all rights hereunder, and any improvements remaining in the Easement Area, shall revert to or otherwise become the property of Grantor; provided, however, that no abandonment shall be deemed to have occurred by reason of Grantee's failure to initially install its systems on the Easement Area within any period of time from the date hereof.

6. Successors and Assigns. This easement and the covenants herein shall be covenants running with the land and shall inure to the benefit of and be binding on the successors, heirs, and assigns of both parties hereto, provided that Grantee's rights hereunder shall not be assigned to any other entity without the prior written consent of Grantor which consent shall not be unreasonably withheld.

DATED this _____ day of _____, 2009.

GRANTOR:

City of Auburn, a Washington municipal corporation

BY: _____

Attest:

BY: _____

STATE OF WASHINGTON)

) ss.

COUNTY OF KING)

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February 17, 2009

Auburn Professional Plaza

Resolution No. _____

On this _____ day of _____, 2009, before me, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared **Peter B. Lewis**, and _____ to me known to be the **Mayor** and _____ of the municipal corporation that executed the within and foregoing instrument, and acknowledged the same to be the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein mentioned and on oath stated that they are authorized to execute said instrument.

WITNESS my hand and official seal hereto affixed the day and year first above written.

(Print or stamp name of Notary)

NOTARY PUBLIC in and for the State
of Washington, residing at _____
_____ My appointment expires _____

Notary seal, text and all notations must be inside 1" margins

EXHIBIT 'A'

(Short Legal Description)

Attached hereto and made a part hereof Easement dated _____, 2009,

By and between

City of Auburn, a municipal corporation of the State of Washington, as Grantor

And

_____, a _____, as Grantee.

EXHIBIT 'B'
(Construction documents)

Attached hereto and made a part hereof Easement dated _____, 2009,

By and between

City of Auburn, a municipal corporation of the State of Washington, as Grantor

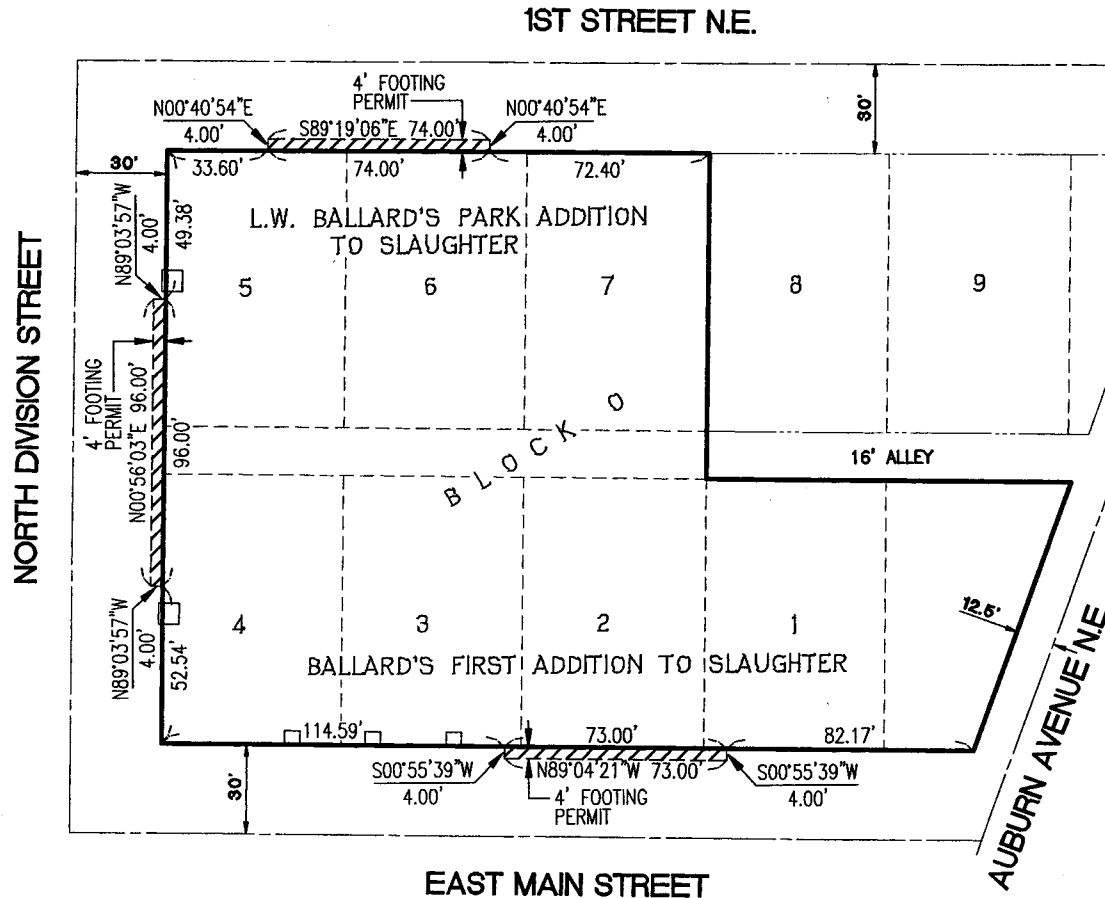
And

_____, a _____, as Grantee.

Exhibit "B"



1" = 60'

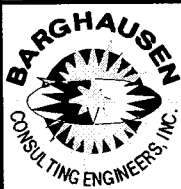


DESCRIPTION: 13147L.008.doc

File:P:\13000s\13147\survey\13147EX05-FOOTINGS.dwg Date/Time:2/17/2009 2:23 PM Scale:1:1 RHERRON Xref: ----

Scale:

Horizontal 1"=60' Vertical



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KENT, WA 98032
(425)251-6222
(425)251-8782 FAX

CIVIL ENGINEERING, LAND
PLANNING, SURVEYING,
ENVIRONMENTAL SERVICES

**AUBURN PROFESSIONAL PLAZA
BUILDING FOOTINGS
RIGHT-OF-WAY USE PERMIT**

Job Number

13147

Sheet

1 of 1

Designed _____ Drawn KMM Checked RWG Approved RWG Date 02/17/09